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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/782,915	02/13/2001	Kenneth G. Noggle	00-003	3193
7590	07/30/2004		EXAMINER	
BURNS, DOANE, SWECKER & MATHIS, LLP			ROSS, DANA	
P.O. BOX 1404			ART UNIT	PAPER NUMBER
ALEXANDRIA, VA 22313-1404			3722	

DATE MAILED: 07/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

VW

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/782,915	NOGGLE, KENNETH G.
	Examiner	Art Unit
	Dana Ross	3722

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 07 June 2004 (Appeal Brief).

2a) This action is FINAL.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-7 and 20-32 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) 20-32 is/are allowed.

6) Claim(s) 1-7 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 13 February 2001 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____.

**DETAILED ACTION**

1. The finality of the previous office action is withdrawn due to the Appeal Brief filed on June 7, 2004. This is a **Fourth** office action, **Non-Final** rejection on Application No. 09/782,915 in response to the Appeal Brief filed on June 7, 2004.

2. In view of the Appeal Brief filed on June 7, 2004, PROSECUTION IS HEREBY REOPENED. A new ground of rejection is set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 5,391,023 (Basteck) in view of U.S. Pat. No. 3,703,117 (Matthews).

In regard to claim 1, Basteck teaches a cavity 31 (col. 2, lines 60-63, fig. 2) in a holder 12 (col. 2, lines 26-29, fig. 2) at least a portion of the cavity 31 contiguous with the pocket 17 containing the insert 18 (col. 2, lines 60-63, fig. 2), with an intermediate component 32 separate from the holder 12 and disposed within the cavity 31, the intermediate component 32 comprising an external peripheral surface 33 (col. 2, lines 60-63) and at least one expansion mechanism 44 (col. 3, lines 16-18), the external peripheral surface 33 engaging the insert 18 at the contiguous portion (col. 3, lines 11-14) and a wedging device 37 engaging the intermediate component 32 (col. 3, lines 1-7) such that actuation of the wedging device 37 results in expansion of the intermediate component 32 in a direction substantially parallel to a desired direction of the adjustment of the insert 18 (col. 3, lines 16-30).

Basteck teaches a problem with unintentional loosening of the wedging device 37 and resolving the loosening though the use of a viscous tincture having a locking action (col. 3, lines 45-51).

Basteck does not disclose the wedging device “movably attached directly” to the holder 12.

Matthews teaches an expansion mechanism in a cavity of a tool holder 4, the mechanism includes an expansion device made of arms 22 and 20, a wedging device 26 (fig. 2).

In regard to claim 2, Basteck also teaches the expansion mechanism 44 comprises slots 47 and a tapered portion disposed in a first region (fig. 2, col. 3, lines 14-16) of an internal peripheral surface 35 of the intermediate component 32 (fig. 2, col. 2, lines 63-66).

In regard to claim 3, Basteck also teaches the wedging device 37 comprises a conical wedge 39 (fig. 2, col. 3, lines 1-7).

In regard to claim 4, Basteck teaches all aspects of the claimed invention as described in the above claim 1 rejection. Basteck also teaches the wedging device 37 includes an adjustment screw 38 threadingly engaged to the intermediate component (fig. 2, col. 3, lines 1-7). Basteck discloses the claimed invention except for the adjustment screw threadingly engaging the holder.

Matthews teaches the adjustment screw 26 threadingly engaging the holder 4 (fig. 2).

In regard to claim 5, Basteck also teaches the intermediate component 32 defines a portion of the pocket 17 side of the pocket 17 (fig. 2, col. 2, lines 60-63).

In regard to claim 6, Basteck also teaches the intermediate component 32 further comprises opposite end faces facing generally parallel to a direction of movement of the wedging device 37, each end face being intersected by at least one expansion element 44 (fig. 2, col. 3, lines 1-37). It is further noted that Matthews teaches an expansion element that runs the length of intermediate component, the expansion element intersecting the top face and bottom face.

In regard to claim 7, Basteck also teaches the actuation of the wedging device 37 causes expansion of the intermediate component 32 along substantially the entire length of the component 32 (fig. 2, col. 3, lines 1-37).

Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the wedging device and holder as taught by Bastek to include the wedging device movably attached directly to the holder as taught by Matthews to threadedly engage the holder for the purpose of ensuring that the cutting insert is effectively wedged-locked against accidental removal from the tool holder and to provide maximum strength and rigidity (see Matthews, col. 1, lines 47-51 and col. 4, lines 4-5, for example).

***Allowable Subject Matter***

5. Claims 20-32 are allowed.
6. The following is an examiner's statement of reasons for allowance: Reasons for Allowance can be found in the Detailed Office Action of May 6, 2003.

***Response to Arguments***

7. Applicant's arguments with respect to claims 1-7 have been considered but are moot in view of the new ground(s) of rejection.

It is noted that the motivation for having the screw of Bastek movably attach directly to the holder has been provided in the above claim 1 rejection.

Furthermore, it is noted that claim 6 has not defined a frame of reference for the "opposite end faces", so the claim is read in the broadest terms. There are two opposite faces on the top end of the intermediate component 32 of Bastek, between the expansion slots. In figure 2, this would appear to be a top left side, and top right side of the intermediate component 32. These two faces face generally parallel of the movement of the wedging device 37 (it is noted that the wedging devices moves in two directions vertically and two directions horizontally, generally) and each end face is intersected by an expansion slot.

***Conclusion***

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dana Ross whose telephone number is 703-305-7764. The examiner can normally be reached on Mon-Thurs 6:00am to 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrea Wellington can be reached on 703-308-2159. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

dmr

  
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